

AMENDED IN ASSEMBLY APRIL 30, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2160

Introduced by Assembly Members Blumenfield and Feuer

February 23, 2012

An act to add Section 1241.2 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2160, as amended, Blumenfield. Insurance: retention risk.

Existing law prohibits domestic insurers from acquiring foreign investments from or located in foreign jurisdictions designated as state sponsors of terrorism by the United States Secretary of State.

Existing law, the Iran Contracting Act of 2010, provides that a person whose name appears on a list developed by the Department of General Services as a person determined by the department to be engaged in investment activities in Iran is ineligible to bid on, submit a proposal for, enter into, or renew a contract with a public entity.

~~This bill would prohibit any indirect investment, defined as an investment in a person that extends credit or provides goods or services in the amount of \$20,000,000 or more to the energy sector of Iran, or extends credit or provides goods or services of any amount to the military sector of Iran, of a domestic insurer from being treated as an admitted asset on the financial statements the domestic insurer files with~~ *require a domestic insurer doing business in California that has investments in any companies that are invested in or engaged in business operations with entities involved in the defense or nuclear sectors of, or in the development of petroleum or natural gas resources of, Iran to provide a list of those investments on an annual basis to the Insurance*

Commissioner. *The bill would require that the investments be treated as nonadmitted assets on the financial statements of the domestic insurer that are filed with the commissioner. The bill would authorize insurers to utilize the list developed for purposes of the Iran Contracting Act of 2010 to comply with these requirements.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1241.2 is added to the Insurance Code,*
2 *to read:*
3 1241.2. (a) *The Legislature finds and declares the following:*
4 (1) *The federal Securities and Exchange Commission has*
5 *determined that business activities in foreign states, sponsoring*
6 *terrorism, such as Iran, that are subject to sanctions by the United*
7 *States may materially harm the share value of foreign companies.*
8 *Shares in these foreign companies may be held in the portfolio of*
9 *insurance companies issuing policies to California consumers.*
10 (2) *Publicly traded companies in the United States are*
11 *substantially restricted in doing business in or with foreign states*
12 *such as Iran that the United States Department of State has*
13 *identified as sponsoring terrorism.*
14 (3) *Insurers in this state currently invest premiums paid by*
15 *citizens of California in publicly traded foreign companies that*
16 *may be at risk due to business ties with foreign states such as Iran*
17 *that sponsor terrorism and are involved in the proliferation of*
18 *weapons of mass destruction.*
19 (4) *Investments in publicly traded foreign companies that have*
20 *business operations in or with foreign states such as Iran are liable*
21 *for sanctions under United States law and increase the financial*
22 *risk contained in the investment portfolios of insurers doing*
23 *business in this state.*
24 (5) *Identifying companies with business activities in foreign*
25 *states such as Iran that sponsor terrorism and ensuring that those*
26 *investments are financially sound is an important public policy*
27 *priority.*
28 (6) *The federal government has imposed numerous sanctions*
29 *on Iran and on entities that have invested at least twenty million*

1 dollars (\$20,000,000) in any year since 1996 to develop petroleum
2 or natural gas resources of Iran.

3 (7) Direct investments in Iran and investments in companies
4 doing business with the Iranian energy sector are subject to
5 financial risk as a result of Iran's pursuit of nuclear weapons,
6 sponsorship of international terrorism, and consequent
7 international isolation.

8 (8) It is the government of Iran, and not the people of Iran, that
9 is responsible for Iran's support of terrorism and which commits
10 egregious violations of human rights under which its own citizens
11 are required to live.

12 (b) As used in this section, the following definitions shall apply:

13 (1) "Business operations" means maintaining, selling, or leasing
14 equipment, facilities, personnel, or any other apparatus of business
15 or commerce in Iran, including the ownership or possession of
16 real or personal property located in Iran.

17 (2) "Company" means a sole proprietorship, organization,
18 association, corporation, partnership, venture, or other entity, its
19 subsidiary or affiliate that exists for profitmaking purposes or to
20 otherwise secure economic advantage. "Company" also means a
21 company owned or controlled, either directly or indirectly, by the
22 government of Iran, that is established or organized under the
23 laws of or has its principal place of business in the Islamic
24 Republic of Iran.

25 (3) "Government of Iran" means the government of Iran or its
26 instrumentalities or political subdivisions. "Government of Iran"
27 also means an individual, company, or public agency located in
28 Iran that provides material or financial support to the Islamic
29 Republic of Iran.

30 (4) "Invest" or "investment" means the purchase, ownership,
31 or control of stock of a company, association, or corporation, the
32 capital stock of a mutual water company or corporation, bonds
33 issued by the government or a political subdivision of Iran,
34 corporate bonds or other debt instruments issued by a company,
35 or the commitment of funds or other assets to a company, including
36 a loan or extension of credit to that company.

37 (5) "Iran" means the Islamic Republic of Iran or a territory
38 under the administration or control of Iran.

39 (c) This section furthers the commissioner's authority to ensure
40 that investments by insurers doing business in California are

1 *financially sound and not subject to risk based on ties to Iran. In*
2 *addition to the requirements of Section 1241.1, any indirect*
3 *investment of a domestic insurer in any company that has business*
4 *operations in Iran shall be treated as a nonadmitted asset on the*
5 *financial statements of the domestic insurer filed with the*
6 *commissioner.*

7 *(d) (1) Any domestic insurer doing business in California shall*
8 *determine if it holds in its portfolio any companies invested in or*
9 *engaged in business operations with entities in the defense or*
10 *nuclear sectors of Iran or is invested in or engaged in business*
11 *operations with entities involved in the development of petroleum*
12 *or natural gas resources of Iran, and that company is subject to*
13 *sanctions under the appropriate federal statute.*

14 *(2) The insurer may utilize the list published by the Department*
15 *of General Services pursuant to subdivision (b) of Section 2203*
16 *of the Public Contract Code to determine whether it has an*
17 *investment subject to this section. Utilization of this list shall be*
18 *deemed automatic compliance by the department.*

19 *(3) On or before June 30, 2013, the insurer shall determine*
20 *which companies are subject to this section.*

21 *(e) The insurer shall provide the department, on an annual*
22 *basis, all of the following:*

23 *(1) A list of investments the insurer has in companies with*
24 *business operations that satisfy the criteria in subdivision (d),*
25 *including, but not limited to, the issuer, by name, of the stock,*
26 *bonds, securities, and other evidence of indebtedness.*

27 *(2) A detailed summary of the business operations a company*
28 *described in paragraph (1) has in Iran.*

29 *(f) If the insurer sells or transfers all of its investments in a*
30 *company with business operations in Iran, this section shall not*
31 *apply to that insurer.*

32 *(g) This section shall cease to be operative if both of the*
33 *following apply:*

34 *(1) Iran is removed from the United States Department of State's*
35 *list of countries that have been determined to repeatedly provide*
36 *support for acts of international terrorism.*

37 *(2) Pursuant to the appropriate federal statute, the President*
38 *of the United States determines and certifies to the appropriate*
39 *committee of the Congress of the United States that Iran has ceased*

1 *its efforts to design, develop, manufacture, or acquire a nuclear*
2 *explosive device or related materials and technology.*

3 *(h) The provisions of this section are severable. If any provision*
4 *of this section or its application is held invalid, that invalidity shall*
5 *not affect other provisions or applications that can be given effect*
6 *without the invalid provision or application.*

7 SECTION 1. ~~Section 1241.2 is added to the Insurance Code,~~
8 ~~to read:~~

9 ~~1241.2. (a) The Legislature finds and declares the following:~~

10 ~~(1) Direct investments in Iran and investments in companies~~
11 ~~doing business with the Iranian energy sector are subject to~~
12 ~~financial risk as a result of Iran's pursuit of nuclear weapons,~~
13 ~~sponsorship of international terrorism, and consequent international~~
14 ~~isolation.~~

15 ~~(2) This section furthers the commissioner's authority to ensure~~
16 ~~that investments by insurers doing business in California are~~
17 ~~financially sound and not subject to risk based on ties to Iran.~~

18 ~~(b) In addition to the requirements of Section 1241.1, any~~
19 ~~indirect investment of a domestic insurer shall be treated as a~~
20 ~~nonadmitted asset on the financial statements of the domestic~~
21 ~~insurer filed with the commissioner.~~

22 ~~(c) For purposes of this section "indirect investment" shall mean~~
23 ~~an investment in a person that extends credit or provides goods or~~
24 ~~services in the amount of twenty million dollars (\$20,000,000) or~~
25 ~~more to the energy sector of Iran, or extends credit or provides~~
26 ~~goods or services of any amount to the military sector of Iran.~~

27 ~~(d) For purposes of this section "energy sector" shall have the~~
28 ~~same meaning as set forth in subdivision (b) of Section 2202 of~~
29 ~~the Public Contract Code.~~

30 ~~(e) For purposes of this section "military sector" shall refer to~~
31 ~~activities to supply, maintain, or enhance any aspect of the Iranian~~
32 ~~military, including, but not limited to, the research and development~~
33 ~~of nuclear weapons.~~